



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 5502-99

28 October 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting that the general discharge issued on 6 December 1945 be recharacterized to an honorable discharge.

2. The Board, consisting of Mr. Brezna, Mr. Pfeiffer and Ms. Davies, reviewed Petitioner's allegations of error and injustice on 26 October 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Naval Reserve on 17 March 1943 at age 17 and reported to active duty on that same day. During the period from the date of his enlistment until October 1944, he served without incident except for a nonjudicial punishment for leaving his post without being properly relieved. On 27 October 1944 he was convicted by a general court-martial of an unauthorized absence of about six days and missing ship's movement. During the court-martial he stated he absented himself because his wife was sick and pregnant, and he surrendered as soon as he could. The court sentenced him to reduction to apprentice seaman, forfeiture of all pay and allowances,

confinement at hard labor for 12 months and a bad conduct discharge. The discharge was suspended for a probationary period of six months and he was restored to duty on 31 January 1945. Petitioner then served aboard the USS MISSISSIPPI (BB 41) and participated in the Okinawa campaign and the occupation of Japan. He was issued a general discharge on 6 December 1945.

d. Petitioner's conduct and proficiency marks normally would have warranted an honorable discharge. However, regulations in effect at that time precluded the issuance of an honorable discharge to anyone who had been convicted by a general court-martial.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes his youth, personal problems and periods of good wartime service. The Board also notes the relatively minor offenses of which he was convicted by the general court-martial, and was aware that if the charges had been referred to a summary court-martial he would have been issued an honorable discharge. Given the circumstances, the Board concludes that no useful purpose is served by the general discharge and it should now be recharacterized to honorable.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 6 December 1945 he was issued an honorable discharge by reason of expiration of enlistment vice the general discharge actually issued on that date.

b. That this Report of Proceedings be filed in Petitioner's naval record.

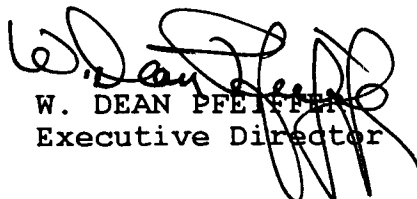
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby

announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director